

10.01.2024
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Sl. No. 12
Ct. No. 22

WPA 18994 of 2019

Sarbani Talukdar
Vs.
The State of West Bengal & ors.

Mr. Syed Mansur Ali
Sk. Intiaj Uddin

.....for the petitioner

Mr. Gaurav Das

.....for the State

The petitioner claims that despite having acquired P.hd. Degree, the petitioner though was allowed to receive and had received the additional two increments, subsequently the respondent authority recalled that two additional increments and demanded the return of alleged overdrawn amount. The petitioner retired on **October 31, 2018** and the first objection on the ground of alleged overdrawal was raised by the State authority in 2019 **at page-24 to the writ petition.**

In the light of the above, the petitioner has two fold of claims, which are

- i) The petitioner was eligible and still is eligible to receive her additional two increments owing to her acquiring P.hd. Degree and the same was granted to the petitioner rightly but was recalled wrongly.
- ii) The impugned objection of the respondent authorities on account of alleged

overdrawal is not tenable in law in view of the law already well settled by the Hon'ble Supreme Court ***In the matter of: Rafiq Masih.***

Syed Mansur Ali, learned counsel appearing for the petitioner submits that the first issue has to be decided upon going through certain facts and figures and then the second issue can be addressed.

Mr. Gaurav Das, learned State counsel appearing for the respondent Nos.1, 2 and 3 by referring to the order impugned in this writ petition dated **January 8, 2019 annexure P-5 at page- 24** submits that the respondent No. 3 has decided the issue already and held that the petitioner was not eligible to receive the said additional two increments.

In reply, learned counsel for the petitioner submits that the impugned decision dated **January 8, 2019** is totally cryptic without any reason and cannot sustain in law.

After considering the submissions made on behalf of the parties and upon perusing the materials on record, this Court is also of the view that the impugned decision dated **January 8, 2019** is cryptic and devoid of any reasons. The same does not contain the basis whereupon the respondent No. 3 has taken the said impugned decision and came to the finding. The said impugned order dated **January 8, 2019**, in the considered opinion of this Court cannot sustain in law.

In the considered opinion of this Court, the order dated **January 8, 2019** is bad in law and accordingly stands **set aside** and **quashed**.

However, the respondent No. 2, to subserve justice, shall decide the issue after giving at least a seven days prior of hearing notice to the petitioner and the School authority being the respondent no. 6 and after giving them an opportunity of hearing shall pass a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the respondent no. 2 positively **within a period of six weeks** from the date of communication of this order and the reasoned order shall be communicated to the petitioner and the respondent No. 6 positively **within a further period of two weeks** from the date of the reasoned order to be passed.

It is also made clear that while deciding the issue the respondents shall also decide whether the amount already returned by the petitioner on account of the alleged overdrawn could have been lawfully claimed or not in the light of the decision of the Hon'ble Supreme Court ***In the matter of Rafiq Masih (supra)***.

It is made clear that this Court has not gone into the merits of the claim of the petitioner in this writ petition in any manner and the petitioner and the respondent No. 6 shall be at liberty to urge whatever points they wish to argue by relying upon whatever

records, papers and documents they wish to rely upon before the respondent No. 2 including the Judgment of the Hon'ble Supreme Court ***In the matter of Rafiq Masih(Supra)*** and/or any further or other law laid down in this score.

In the event, the reasoned order goes in favour of the petitioner that he is eligible to receive additional two increments owing to acquire of her P.hd. degree then the respondent No. 3 **within a period of two weeks** from the date of receiving the said reasoned order shall take all consequential steps to allow the petitioner to receive the two additional increments and their benefits in accordance with law.

In the event the reasoned order goes in favour of the petitioner to the extent that the objection raised on account of the alleged overdrawal after retirement of the petitioner is bad in law then the respondent No. 3 shall take all necessary and consequential steps and shall return the amount already deposited by the petitioner on account of alleged overdrawal together with **interest** at the rate of **6% per annum** since the date of deposit of the amount by the petitioner till the actual tendering of the amount to the petitioner.

If the petitioner is found to be eligible to receive her additional two increments, the necessary revision of pension shall be done by the respondent Nos. 3 and 4 and the Revised Pension Payment Order shall be issued in favour of the petitioner positively **within a period of**

two weeks from the date of receiving the reasoned order by the respondent No. 4.

On the above terms, this writ petition being **WPA 18994 of 2019 stands allowed**, without any order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)